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EASTERN DISTRICT OF TEXAS

JEREMY LEE CONLIN,	§	
Plaintiff,	8 8 8	
versus	§ §	CIVIL ACTION NO. 1:08-CV-74
CHRISTINA T. SHIELDS, et al.,	§	
Defendants.	§ §	

MEMORANDUM ORDER PARTIALLY ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Jeremy Lee Conlin, an inmate confined at the Stiles Unit, proceeding *pro se*, brought this lawsuit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed as frivolous and for failing to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Plaintiff filed objections to the Report and Recommendation of United States Magistrate Judge and, alternatively, requested to dismiss the action.

Pursuant to Federal Rule of Civil Procedure 41(a), plaintiff is entitled to dismiss the action prior to the service of an answer or a motion for summary judgment. The defendants in this action have not been served. Accordingly, plaintiff's motion to dismiss should be granted.

ORDER

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED** to the extent it recommends dismissal. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendation.

SIGNED at Beaumont, Texas, this 11th day of February, 2011.

UNITED STATES DISTRICT JUDGE

Maria a. Crone